

IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT

IN THE MATTER OF COURT-ORDERED
MEDIATION IN PROBATE MATTERS IN
JUDICIAL ELECTION DISTRICT 5C

ADMINISTRATIVE ORDER 2016-6

WHEREAS the Iowa Supreme Court has approved the Polk County Probate Mediation Pilot Project to proceed under Iowa Rule of Civil Procedure 1.602.(3)(g); and

WHEREAS a committee of the probate bench and bar in Polk County has studied this matter and recommends proceeding with the pilot project; and

WHEREAS the pilot project is modeled on the successful family law mediation program in the Fifth Judicial District; and

WHEREAS mediation will provide a process for families and litigants in probate matters to foster peaceful communication; develop a working relationship to enable them to resolve their issues, and reduce the trauma created by ongoing conflict.

WHEREAS a mediation program will also assist in judicial efficiency and promote judicial economy in a time of scarce judicial resources.

IT IS THEREFORE ORDERED: The Probate Judge shall identify those contested probate matters where mediation would be required and enter an Order Setting Hearing and Directing Mediation. Upon entry of an order directing mediation, all litigants in the probate matter shall complete mediation prior to hearing.

Mediation must be conducted by a qualified mediator. All probate mediators shall meet the Qualification Requirements for Probate Mediators set forth in Attachment A.

Following mediation, the Mediator's Certificate of Compliance shall be filed with the clerk of court.

The form orders and certificates listed in Attachment A shall be used to implement the Polk County Probate Mediation Pilot Project.

The court retains discretion to waive mediation in any particular case for good cause on application and opportunity for hearing. Good cause may include but is not limited to a history of elder abuse or domestic abuse between the parties (See Iowa Code § 598.7(1)), or other

grounds of emergency or necessity indicating that waiver of mediation is warranted or required to protect the substantive rights or interests of any party or person who might be affected by the order disposing of the probate matter.

This pilot project shall be implemented in Polk County probate matters effective March 1, 2016.

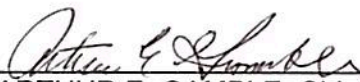
ATTACHMENT A

Qualifications Requirements for Mediators

Order Setting Hearing and Directing Mediation

Mediator's Certificate of Compliance

SO ORDERED this 25th day of February, 2016.


ARTHUR E. GAMBLE, Chief Judge
Fifth Judicial District of Iowa

FILED
POLK COUNTY, IA.
16 FEB 25 PM 2:52
CLERK DISTRICT COURT

ATTACHMENT A

Qualification Requirements for Mediators

General Probate Qualifications

- Must complete one-hour webinar or live session regarding the availability of external resources, mainly for the aging; AND
- 25 hours minimum general mediation training; AND
- One of the following:
 - 15 hours probate or elder specific mediation training; OR
 - 10 continuous years of practicing primarily in wills, trusts, and estate work (defined as having devoted the greater of 400 hours or 40% of your law practice to the field for 10 continuous years).

Guardianships dealing with juveniles only

- Current qualified family law mediators: AND
- Must complete a one-hour live session re guardianship procedures.

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

IN THE MATTER OF

Probate No. [GCPR, TRPR, ESRP]

ORDER SETTING HEARING AND
DIRECTING MEDIATION

An application has been filed in the above-captioned matter seeking an Order concerning:

☐ estate

☐ guardianship

☐ conservatorship

☐ trust

☐ Other _____

The Court concludes mediation is appropriate in these matters to:

- (a) Foster peaceful communication between the parties;
- (b) Help parties develop a working relationship to enable them to resolve their issues;
and
- (c) Reduce the trauma created by ongoing conflict.

You are **ORDERED** to participate in mediation prior to the date of hearing in an attempt to resolve the issues in this case and any other issues you mutually agree to mediate as follows:

- (1) You must contact the Coordinator of the District Court Mediation Program, Joe Harrison, 500 S.W. 7th Street, Suite 100, Des Moines, IA 50309 (515) 286-2140, jharrison@pcbaonline.org, a similarly qualified mediation service, or a qualified mediator within seven (7) days of the date of this Order to arrange a mediation session. If you do not arrange a mediation session, one may be set for you by the District Court Mediation Program.

- (2) Mediation shall be completed _____ days prior to the hearing date.

- (3) The parties shall mediate in good faith. ***Failure to attend mediation may lead to sanctions, which could include dismissal of the case or entry of a default.***
- (4) The cost of the mediation shall be divided equally among the contesting parties. Payment shall be due and payable the day of the mediation.
- (5) If you believe you cannot afford mediation, you may apply to the District Court Mediation Program for a mediator at a reduced rate.
- (6) After the mediation is completed, the mediator shall file a Certificate of Compliance with this Court within 3 business days of mediation, or prior to the next scheduled event, whichever is first.

Hearing is scheduled for the day of , 20 , at m., in the Polk County Courthouse, Courtroom 402. This hearing will be cancelled if a settlement is reached, either through mediation or negotiation.

Copies to:

Petitioner's Attorney
Respondent's Attorney
Pro Se Petitioner
Pro Se Respondent
District Court Mediation Program
Guardian Ad Litem
Other

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

IN THE MATTER OF

Probate No. [GCPR, TRPR, EPR]

MEDIATOR'S
CERTIFICATE OF COMPLIANCE

The above-captioned matter was directed to mediation pursuant to Order of this Court.
The undersigned hereby certify:

1. The parties have complied with the requirement of mediation in the above-captioned case by attending a mediation session on _____, 20____, with mediator _____.
2. The parties reached agreement on:
 - a. _____ all issues
 - b. _____ partial agreement
 - c. _____ no agreement
3. If the parties reach an agreement, approved by all parties and counsel, it will be submitted to the court prior to the date scheduled for hearing, or the parties shall appear for the hearing as scheduled. Please notify the Case Coordinator at (515) 286-3789 prior to the hearing date if a hearing is no longer necessary.
4. The mediator is responsible for filing this certificate with the Clerk of Court within 3 business days of mediation, or prior to the next scheduled event, whichever is first.

Dated this _____ day of _____, 20____.

(Petitioner/Attorney)

(Respondent/Attorney)

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(Mediator)